

(Del. Rev. 11/14) Pro Se Prisoner Civil Rights Complaint

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Coy BAILEY

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

PERRY PHELPS

(In the space above enter the full name(s) of the defendant(s).
If you cannot fit the names of all of the defendants in the
space provided, please write "see attached" in the space
above and attach an additional sheet of paper with the full list
of names. The names listed in the above caption must be
identical to those contained in Section IV. Do not include
addresses here.)

Civ. Action No. _____
(To be assigned by Clerk's
Office)

COMPLAINT
(Pro Se Prisoner)

Jury Demand?

☒ Yes

☐ No

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

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I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

Check one:

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)

II. PLAINTIFF INFORMATION

BAILEY, COY
Name (Last, First, MI) Aliases

#00091240
Prisoner ID #

JTVCC
Place of Detention

1181 Paddock Rd
Institutional Address

New Castle Co. Smyrna, DE 19977
County, City State Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

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IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1:

PHELPS, PERRY
Name (Last, First)

DOC Commissioner
Current Job Title

275 McKee Rd
Current Work Address

Kent Co. Dover, DE
County, City

State

19901
Zip Code

Defendant 2:

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

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Defendant(s) Continued

Defendant 3:

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

Defendant 4:

Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

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V. STATEMENT OF CLAIM

Place(s) of
occurrence:

JIVCC Infirmary

Date(s) of occurrence:

March 2018

State which of your federal constitutional or federal statutory rights have been violated:

8th Amendment right to be free from cruel and unusual punishment excessive force violation, denial of medical care, Americans with Disability Act violation, Abuse of Elderly in firm.

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

What
happened to
you?

Plaintiff Bailey is an elderly inmate housed at JIVCC for decades. Bailey has numerous serious medical disabilities and infirmities including but not limited to: hearing loss to near deafness debilitating pain, longstanding untreated mental illness from such disabilities of medical nature.

In March 2018, Bailey was severely beaten in JIVCC Infirmary (D-building) by an officer. The arms of Bailey were cuffed behind tightly and wrenched up very highly behind his back. Bailey's wrists are still bleeding over a few weeks after. Bailey is in extreme pain. He was in the (INF) to get hearing aid battery replacement. He was not violent, no reason for such excessive force. He could not hear any commands properly to

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Who did
what?

respond). This was done on video, now recently upgraded in response to SGT. Floyd's death. Mr. Bruce Mason was present, and witnessed the abuse in part. The cause of action is violation of 8th Amendment of U.S. Constitution, by Bailey being subjected to inadequate medical care, and inadequate officer protection. Phelps as DOC commissioner is responsible for the health and safety of all inmates in DOC of Delaware's care, as such he is liable in his personal capacity due to his reckless and wanton indifference to Bailey's serious medical needs. This is done by Phelps deliberately, as this sort of gross negligence is oft reported and chronicled in his department by other inmates families and Delaware news agencies. Phelps is well aware his indifference to care can and will, cause severe, permanent and deadly harm. Phelps is abusing a vulnerable and disabled population in his ultimate care, in violation of protections afforded Bailey under the American's with disability's Act (ADA).

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Was anyone
else
involved?

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VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Is there a grievance procedure available at your institution?

☒ Yes☐ No

Have you filed a grievance concerning the facts relating to this complaint?

☒ Yes☐ No

If no, explain why not:

Is the grievance process completed?

☒ Yes☐ No

If no, explain why not:

Process at Vaughn C.C. well known to be ineffective to protect plaintiffs rights, as in Brown v. Croak (3rd. cir) U.S. Ct. of Appeals

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Disabled Bailey requests Counsel appointment, declarative and injunctive relief, and monetary compensation for punitive and compensatory relief in and for his pain, suffering, permanent scarring and harm inflicted by Phelps' wanton deliberate indifference thru excessive force and denial of adequate medical care. Bailey attempts to procure medical records to supplement this filing, dot with inmate West's assistance.

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X [Signature]
 dated 4/6/18

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in forma pauperis in federal court if that prisoner has “on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. §1915(g).

☐ Yes ☒ No

- Name of case (including defendants' names), court, and docket number
- Nature of claim made
- How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no text or other markings on the paper.

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IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; and (3) complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Plaintiff must sign and date the complaint and provide prison identification number and prison address.

Dated

Plaintiff's Signature

BAILEY, COY
Printed Name (Last, First, MI)

00091240
Prison Identification #

1181 Padlock Rd.
Prison Address

Smyrna
City

DE
State

19977
Zip Code

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.